

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Regulated Industries Committee

BILL: SB 666

SPONSOR: Senator Posey`

SUBJECT: Alcoholic Beverages/Surcharges & Tax

DATE: March 3, 2005

REVISED: 03/08/05

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	Favorable
2.	<u></u>	<u></u>	<u>GE</u>	<u></u>
3.	<u></u>	<u></u>	<u>HA</u>	<u></u>
4.	<u></u>	<u></u>	<u></u>	<u></u>
5.	<u></u>	<u></u>	<u></u>	<u></u>
6.	<u></u>	<u></u>	<u></u>	<u></u>

I. Summary:

The bill provides that, effective July 1, 2005, the surcharge imposed pursuant to s. 561.501, F.S., on alcoholic beverages sold by the drink for consumption on a retailer's licensed premises shall no longer be imposed. The bill also provides that s. 561.501, F.S., expires on July 1, 2008.

The bill provides that, beginning July 1, 2005, 2.2 percent of the monthly collection of the alcoholic beverages excise taxes collected under ss. 561.05, 564.06, and 565.12 shall be deposited into the Children and Adolescents Substance Abuse Trust Fund in the Department of Children and Families.

This bill would take effect on July 1, 2005.

This bill substantially amends the following sections of the Florida Statutes: 561.025, 561.121, and 561.501.

This bill repeals section 561.501, Florida Statutes.

II. Present Situation:

In 1990, the Legislature enacted ch. 90-132, L.O.F., codified at s. 561.501, F.S., which imposed a surcharge on all alcoholic beverages sold by the drink for consumption on a retailer's licensed premises. The surcharge was ten cents on each one ounce of liquor or four ounces of wine and four cents on each 12 ounces of beer. The surcharge is collected by Division of Alcoholic Beverage and Tobacco (division) within the Department of Business and Professional Regulation.

In 1997, s. 561.501, F.S., was amended by ch. 97-213, L.O.F., to provide for a surcharge of six cents on each 12 ounces of cider. The 1997 legislation also prevented shipping of alcoholic beverages into Florida directly to customers and repealed the surcharge, contingent upon a specified increase in alcoholic beverage excise and sales taxes. The contingent repeal was based on claims that substantial tax dollars are lost due to unlawful direct shipping, which if recouped, might be sufficient to offset repeal of the surcharge. The repeal was made contingent upon excise and sales tax revenue in calendar year 1998 being in excess of \$535 million. The total collected during calendar year 1998, however, was only \$464,185,488, and the contingent repeal was not implemented.

In 1999, the Legislature reduced the surcharge by one-third.¹ Effective September 1, 1999, the surcharge on each one ounce of liquor or four ounces of wine was reduced from 10 cents to 6.67 cents; the surcharge on each 12 ounces of cider was reduced from 10 cents to four cents; and the surcharge on each 12 ounces of beer was reduced from four cents to 2.67 cents.

In 2000, the Legislature further reduced the surcharge.² Effective July 1, 2000, the surcharge on each one ounce of liquor or four ounces of wine was reduced to 3.34; the surcharge on each 12 ounces of cider was reduced two cents; and the surcharge on each 12 ounces of beer was reduced to 1.34 cents.

Section 561.501, F.S., also provides an exemption from the alcoholic beverage surcharge for nonprofit organizations. Specifically, the surcharges need not be paid upon alcoholic beverages when sold by an organization that is licensed by the division under s. 565.02(4) or s. 561.422, F.S., as an alcoholic beverage vendor and that is determined by the Internal Revenue Service to be currently exempt from federal income tax under s. 501(c)(3) or (19) of the Internal Revenue Code of 1986, as amended.

According to the Revenue Estimating Committee Conference, the estimated surcharge revenue for FY 2005-06 is \$47.2 million.

OPPAGA Report

In a recent Office of Program Policy Analysis and Government Accountability (OPPAGA) report, OPPAGA found that the surcharge is a costly and complicated tax to administer, audit, and enforce and is burdensome to merchants.³ The OPPAGA report found that the average monthly surcharge payment is less than \$200. The report also found that the auditing of the surcharge requires a significantly disproportionate share of resources per tax dollar collected, and that there is a high rate of surcharge underpayment, due, in part, to the difficulty of calculating the surcharge due. The report found that the surcharge recordkeeping and reporting requirements place a burden on retailers. OPPAGA recommended that the Legislature consider eliminating the surcharge or, alternatively, consider requiring that the surcharge be paid on the wholesale level rather than the retail level.

¹ Chapter 99-239, L.O.F.

² Chapter 2000-354, L.O.F.

³ *Division of Alcoholic Beverages and Tobacco Should Improve Primary Functions and Accountability System*, Report No. 04-56, August 2004, OPPAGA, Florida Legislature.

Children and Adolescents Substance Abuse Trust Fund

Section 561.121(5), F.S., requires that twenty-seven and two-tenths percent of the surcharge collections to be transferred to the Children and Adolescents Substance Abuse Trust Fund (CASA TF), in the Department of Children and Family Services, for the purpose of funding programs directed at reducing and eliminating substance abuse problems among children and adolescents. The remainder of collections are credited to the General Revenue Fund. According to the Revenue Estimating Committee Conference, for FY 2005-06, an estimated \$11.9 million in surcharge collections will be transferred to the CASA TF.

III. Effect of Proposed Changes:

The bill provides that, effective July 1, 2005, the surcharge shall no longer be imposed. The bill also provides that s. 561.501, F.S., expires on July 1, 2008, which would permit the division to continue to audit and collect unpaid surcharges incurred before the surcharge ceased to be imposed.

The bill also amends s. 561.121, F.S., to provide that, beginning July 1, 2005, 2.2 percent of the monthly collection of the alcoholic beverages excise taxes collected under ss. 561.05 and 565.12 shall be deposited in the CASA TF. The bill deletes the provision in s. 561.121(4), F.S., that provides for depositing the specified amount of surcharges collected under s. 561.501, F.S., into the CASA TF.

This bill would take effect on July 1, 2005.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

According to the consensus estimate of the Revenue Estimating Conference, the impact of the bill would be as follows:

REVENUE			
(In millions)	FY 2005-06 Annualized	FY 2005-06 Cash	FY 2006-07 Cash
General Revenue	(47.2)	(43.7)	(46.8)
CASA Trust Fund	0	1.2	.4
Total State Impact	(47.2)	(42.5)	(46.4)
Total Local Impact	0	0	0
Total Impact	(47.2)	(42.5)	(46.4)

B. Private Sector Impact:

Alcoholic beverage licensees who sell alcoholic beverages for consumption on their licensed premises would not have to collect and make monthly surcharge payments, or comply with the related surcharge recordkeeping and reporting requirements in s. 561.501, F.S.

C. Government Sector Impact:

The bill provides 2.2 percent of the monthly collection of the alcoholic beverages excise taxes collected under ss. 561.05, 564.06, and 565.12 shall be deposited in the CASA TF. According to the consensus estimate of the Revenue Estimating Conference, the projected revenues to be deposited in the CASA TF from surcharge collections under current law, \$11.9 for FY 2005-06, \$12.2 million for FY 2006-07, and \$12.4 million for FY 2007-08, are identical to the projected revenue to be deposited in the CASA TF from alcoholic beverages excise tax collections. Therefore, based on current revenue projections, the money transferred to the CASA TF would not be reduced under the provisions of this bill.

According to the DBPR, it projects that 18 positions involved in the administration and enforcement of the surcharge would ultimately be affected by the bill. Because the requirement to administer and enforce the bill would remain in effect for three years, the department anticipates that it will be necessary to maintain current staffing levels in order to assure that each licensee is audited during the closeout phase.

OPPAGA estimates the costs associated with administering the alcoholic beverage surcharge to be a reduction of 37 FTE and a savings of \$2.5 million.

The department estimates the following impact on expenditures:

EXPENDITURES – FUNDING SOURCE AB&T TRUST FUND			
Non-Recurring Effects	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>
Operating Capital Outlay	0	0	0
Other Personal Services	0	0	0
Other (identify) Notification Mail-outs	15,000	0	0
Subtotal	15,000	0	0

EXPENDITURES – FUNDING SOURCE AB&T TRUST FUND			
Recurring Effects	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>
Salaries/Benefits # of FTE's	0	0	0
Expenses Annual printing of coupon books	(33,000)	(33,000)	(33,000)
Other (identify)	0	0	0
Subtotal	(33,000)	(33,000)	(33,000)

Non-Operating Expenditures	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>
Service Charges (to GR – AB&T TF)	(738,266)	(790,440)	(840,874)
Service Charges (to GR – CASA TF)	940,152	940,152	940,152
Subtotal	201,886	149,713	99,278

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

VIII. Summary of Amendments:

None.

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